



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JUNE 25, 2007
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JURY CONVICTS TWO MEN FOR RUNNING INTERNATIONAL PORNOGRAPHIC SPAMMING BUSINESS

WASHINGTON – A federal jury in Phoenix convicted two men today on all counts, including conspiracy, fraud, money laundering, and transportation of obscene materials, Assistant Attorney General Alice S. Fisher for the Criminal Division and Interim U.S. Attorney Dan Knauss of the District of Arizona announced today.

The jury convicted, Jeffrey A. Kilbride, 41, of Venice, Calif., and James R. Schaffer, 41, of Paradise Valley, Ariz., on eight counts arising out of the international pornographic spamming business they organized and ran in 2004. The trial, which began on June 5, 2007, was the first to include charges under the Controlling the Assault of Non-solicited Pornography and Marketing (CAN-SPAM) Act of 2003. The law created by the CAN-SPAM Act was designed to crack down on the transmission of pornography in commercial bulk unsolicited electronic mail messages.

“Through their international spamming operation, these defendants made millions of dollars by sending unwanted sexually explicit emails to hundreds of thousands of innocent people, including families and children, while simultaneously using sophisticated Internet technology to try to conceal their identity,” said Assistant Attorney General Fisher. “This prosecution, the first of its kind under the CAN-SPAM Act, demonstrates the Department of Justice’s commitment to protect American families from receiving unsolicited spam email.”

In 2003, Kilbride and Schaffer established a spamming operation that grossed over two million dollars over the course of its operation. Their business model consisted of sending millions of unsolicited email messages which advertised commercial Internet pornography Web sites. For each person directed to one of these Web sites, Kilbride and Schaffer earned a commission. Hard-core pornographic images were embedded in each email, and were visible to any person who opened the email.

Kilbride and Schaffer were convicted of two violations of the CAN-SPAM Act. One of the counts charged that Kilbride and Schaffer sent multiple electronic commercial mail messages containing falsified header information. The other count stemmed from the fact that Kilbride and Schaffer sent email messages using domain names that had been registered using materially false information.

Kilbride and Schaffer were also convicted on one count of conspiring to commit fraud in connection with electronic mail and four counts of felony obscenity charges for transporting hard-core pornographic images of adults. Finally, Kilbride and Schaffer were convicted on a federal money laundering charge for moving funds inside and out of the United States to conceal or disguise the nature, location, source, ownership or control of the proceeds from those materials.

When the CAN-SPAM Act went into effect on Jan. 1, 2004, Kilbride and Schaffer arranged to remotely log on to servers in Amsterdam, to make it look like their spam messages were being sent from abroad, when in reality Kilbride and Schaffer were operating their business from inside the United States. The "From" names and e-mail addresses used to send the spam messages differed from the "Reply to" addresses, making it impossible for recipients to identify the actual sender of the messages or to reply to the email. In addition, the domain names used to send the spam were registered in the name of a fictitious employee at a shell corporation Kilbride and Schaffer established in the Republic of Mauritius. Further, Kilbride and Schaffer used bank accounts in the Republic of Mauritius and the Isle of Man to receive and funnel the proceeds from the operation and to further insulate themselves from detection by U.S. law enforcement.

Witnesses called during the three-week trial included three U.S. citizens who pleaded guilty to conspiring with Kilbride and Schaffer and aiding and abetting the operation as a whole. Eight citizens who complained to either the Federal Trade Commission (FTC) or AOL Inc. traveled from Massachusetts, Texas, Iowa, California and Arizona to describe the context in which their families, including some children, received the pornographic spam messages. Witnesses from AOL and the FTC confirmed that over 660,000 complaints were received about Kilbride and Schaffer's pornographic spam, including some who had set parental controls to protect their children from accessing graphic sexual content.

Kilbride and Schaffer face a maximum penalty of five years in prison for each CAN-SPAM and obscenity offense, as well as a fine of up to \$500,000, and a maximum of 20 years in prison for money laundering. Sentencing was set for September 24, 2007.

This case is being prosecuted by trial attorneys Jill Trumbull-Harris, Kayla Bakshi and Bonnie Kane of the Child Exploitation and Obscenity Section of the Criminal Division of the U.S. Department of Justice. Assistance and support was provided by Assistant U.S. Attorney John R. Lopez IV, of the District of Arizona. The investigation of this case was conducted by the Federal Bureau of Investigation and the High Tech Investigative Unit of the Criminal Division of the U.S. Department of Justice.

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